

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Westberg et al.

Serial No.: Unknown

Filed: . Unknown

For: Fluid Pressure Actuated Blood Pumping Systems and Methods with Continuous Inflow and Pulsatile Outflow Conditions

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT WITHIN
THREE MONTHS OF FILING OR BEFORE MAILING OF FIRST OFFICE ACTION
(37 CFR 1.97(b))

NOTE: "An information disclosure statement shall be considered by the Office if filed: (1) within three months of the filing date of a national application; (2) within three months of the date of entry of the national stage as set forth in S 1.491 in an international application; or (3) before the mailing date of a first Office action on the merits, whichever event occurs last." 37 CFR 1.97(b).

NOTE: The "filing date of a national application" under 37 CFR 1.97(b) has two possible meanings. Where the filing is a direct one to the United States Patent & Trademark Office, the filing is defined in 37 CFR 1.53(b) as "the date on which: (1) A specification containing a description pursuant to S 1.71 and at least one claim pursuant to S 1.75; and (2) any drawing required by S 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by S 1.41." 37 CFR 1.97(b)(1). On the other hand, an international application that enters the national stage occurs when the applicant has filed the documents and fees required by 35 U.S.C. S 371(c) within the periods set forth in S 1.494 or S 1.495. 35 U.S.C. S 371(c) requires the filing of the following: (1) the national fee; (2) a copy of the international application, unless already sent by the International Bureau, and an English translation if filed in another language; (3) amendments under PCT Article 19, with a translation into English if made in another language; (4) an oath or declaration; and (5) a translation into English of any annexes to the international preliminary examination report, if such annexes were made in another language. 37 CFR 1.97(b)(2).

IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING INFORMATION
DISCLOSURE STATEMENT

The information disclosure statement submitted herewith is being filed WITHIN THREE MONTHS OF THE FILING DATE OF THE APPLICATION OR DATE OF ENTRY INTO THE NATIONAL STAGE OF AN INTERNATIONAL APPLICATION OR BEFORE THE MAILING DATE OF A FIRST OFFICE ACTION ON THE MERITS, WHICHEVER EVENT OCCURS LAST. 37 CFR 1.97(b).

NOTE "NO CERTIFICATION OR FEE IS DUE WHEN THE FILING IS MADE WITHIN THE ABOVE TIME PERIOD. IT IS ADVISABLE TO ENSURE THAT NO OFFICE ACTION HAS BEEN MAILED IF THE DISCLOSURE STATEMENT IS DELAYED UNTIL AFTER THREE MONTHS FROM FILING.

NOTE: "An information disclosure statement will be considered to have been filed on the day it was received in the Office, or on an earlier date of a mailing if accompanied by a properly executed certificate of mailing under 37 CFR 1.8, or Express Mail certificate under 37 CFR 1.10. An Office action is mailed on the date indicated in the Office action." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

CERTIFICATE OF MAILING (37 CFR 1.8(a)) or (37 CFR 1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United State Postal Service on the date shown below as Express Mail Label No. EV318693190 US in an envelope addressed as follows: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450

Date: 20 April 2004

Judith Dunaway
Type or print name of person mailing paper


(Signature of person mailing paper)

NOTE: "The term 'national application' includes continuing applications (continuations, divisions, continuations-in-part) so three-months will be measured from the actual filing date of an application as opposed [sic] to the effective date of a continuing application." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

NOTE: "An action on the merits means an action which treats the patentability of the claims in an application, as opposed to only formal or procedural requirements. An action on the merits would, for example, contain a rejection or indication of allowability of a claim or claims rather than just a restriction requirements (37 CFR 1.142) or just a requirement for additional fees to have a claim considered (37 CFR 1.16(d)). Thus, if an application was filed on Jan. 1 and the first Office action on the merits was not mailed until six months later on July 1, the examiner would be required to consider any proper information disclosure statement filed prior to July 1." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

WARNING: "A PETITION FOR SUSPENSION OF ACTION TO ALLOW APPLICANT TIME TO SUBMIT AN INFORMATION DISCLOSURE STATEMENT WILL BE DENIED AS FAILING TO PRESENT GOOD AND SUFFICIENT REASONS, SINCE 37 CFR 1.97 PROVIDES ADEQUATE RECOURSE FOR THE TIMELY SUBMISSION OF PRIOR ART FOR CONSIDERATION BY THE EXAMINER." NOTICE OF JULY 6, 1992 (1141 O.G. 63).

The submission of any document herewith is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima face* prior art reference against the claims of the present application.

COPIES OF THE DOCUMENTS LISTED ON THE ATTACHED FORM PTO-1449 CAN BE FOUND IN THE FILE WRAPPER OF PARENT APPLICATION SERIAL NO. 09/390,265 FILED 3 September 1999 AND ARE THEREFORE NOT INCLUDED WITH THIS SUBMISSION.

Should any fees be necessary in connection with this submission, please charge same to Account No. 06-2360.

Date 20 April 2004

Reg. No. 29,243

Telephone No.: (262) 783-1300



Signature of Attorney of Record

Daniel D. Ryan

Type or Print Name of Attorney of Record

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LIST OF PRIOR ART CITED BY APPLICANT <i>(Use several sheets if necessary)</i>	ATTY DOCKET NO. F-5495 DIV		SERIAL NO.
	APPLICANT Westberg et al.		
	FILING DATE	GROUP	

U.S. PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (if Appropriate)
	4,778,451	10/18/88	Kamen			
	4,479,760	10/30/84	Bilstad et al.			
	4,479,762	10/30/84	Bilstad et al.			
	4,808,161	02/28/89	Kamen			
	4,865,584	09/12/89	Epstein et al.			
	5,062,774	11/05/91	Kramer et al.			
	5,088,515	02/18/92	Kamen			
	5,108,367	04/28/92	Epstein et al.			
	5,178,182	01/12/93	Kamen			
	5,193,990	03/16/93	Kamen et al.			
	5,350,357	09/27/94	Kamen et al.			

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	Class	Subclass	Translation Yes No
		WO 98/22165	1998	PCT			
		WO 98/22163	1998	PCT			
		WO 96/40328	1996	PCT			
		WO 95/20985	1995	PCT			
		WO 97/09074	1997	PCT			

OTHER PRIOR ART (Including Author, Title, Date, Pertinent Pages, Etc.)

			Therakos Brochure Circa 1998

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this of with next communication to applicant.

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	5,421,823	06/06/95	Kamen et al.			
	5,431,626	07/11/95	Bryant et al			
	5,437,624	08/01/95	Langley			
	5,438,510	08/01/95	Bryant et al			
	5,474,683	12/12/95	Bryant et al			
	5,628,908	5/13/97	Kamen et al			
	5,634,896	06/03/97	Bryant et al			
	5,651,766	07/29/97	Kingsley et al			
	5,676,644	10/14/97	Toavs et al			
	5,746,719	05/05/98	Farra et al			
	5,755,683	05/26/98	Houle et al			

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	Class	Subclass	Translation Yes No
		W0 97/02059	1997	PCT			
		EP 0771569		EP			
		WO 96/40319	1996	PCT			

OTHER PRIOR ART *(Including Author, Title, Date, Pertinent Pages, Etc.)*

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U.S. PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	5,769,811	06/23/98	Stacey et al.			
	5,938,634	08/17/99	Packard			
	5,951,509	09/14/99	Morris			
	6,106,498	08/22/00	Friedli et al			
	5,722,947	03/03/98	Jeppsson et al.			
	4,816,019	03/28/89	Kamen			
	4,077,882	03/07/78	Gangemi			
	4,858,883	08/22/89	Webster			
	6,071,423	06/06/00	Brown et al			
	4,119,120	10/10/78	Mehaffy et al			
	5,344,568	09/07/99	Kitaevich et al			

FOREIGN PATENT DOCUMENTS

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	APPLICANT Westberg et al.	
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U.S. PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	5,746,708	5/5/98	Giesler et al			
	4,828,543	5/9/89	Weiss et al.			
	4,486,189	12/4/84	Troutner et al.			
	4,479,761	10/30/84	Bilstad et al			
	5,921,951	7/13/99	Morris			
	5,593,290	1/14/97	Greisch et al.			
	5,989,438	11/23/99	Fumiyama			
	5,482,440	1/9/96	Dennehey et al			
	5,871,693	2/16/99	Lindsay			
	5,311,908	5/17/94	Barone et al.			
	5,462,416	10/31/95	Dennehey et al.			

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	Class	Subclass	Translation Yes No

OTHER PRIOR ART *(Including Author, Title, Date, Pertinent Pages, Etc.)*

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LIST OF PRIOR ART CITED BY APPLICANT
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CUSTOMER NO. 26308

ATTY DOCKET NO.
F-5495 DIV

SERIAL NO.

APPLICANT
Westberg et al.

FILING DATE

GROUP

U.S. PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	3,783,453	01/1974	Bolie			
	3,919,722	11/1975	Harmison			
	4,162,543	07/1979	Shumakov et al.			
	4,175,264	11/1979	Schiff			
	4,373,527	02/1983	Fischell			
	4,381,567	05/1983	Robinson et al.			
	4,428,744	01/1984	Edelson			
	4,467,844	08/1984	DiGianfilippo et al.			
	4,612,007	09/1986	Edelson			
	4,613,322	09/1986	Edelson			
	4,623,328	11/1986	Hartranft			
	4,648,430	03/1987	DiGianfilippo et al.			
	4,657,529	04/1987	Prince et al.			
	4,662,358	05/1987	Farrar et al.			
	4,670,007	06/1987	Wheeldon et al.			
	4,683,889	08/1987	Edelson			
	5,112,298	05/1992	Prince et al.			
	5,149,413	09/1992	Maget			
	5,200,090	04/1993	Ford et al.			
	5,205,819	04/1993	Ross et al.			
	5,438,510	08/1995	Bryant et al.			
	5,593,290	01/1997	Greisch et al.			
	5,693,091	12/1997	Larson Jr. et al.			
	5,718,248	02/1998	Trumble et al.			
	5,856,929	01/1999	McClendon et al.			
	5,888,186	03/1999	Trumble et al.			
	6,491,656	12/2002	Morris			
	6,495,366	12/2002	Briggs			

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	4,479,761	10/1984	Bilstad et al.			
	5,746,708	05/1998	Giesler et al.			
	4,486,189	12/1984	Troutner et al.			
	4,828,543	05/1989	Weiss et al.			
	5,344,568	09/1994	Kitaevich et al.			
	5,921,951	07/1999	Morris			
	5,273,517	12/1993	Barone et al.			
	4,965,846	10/1990	Williamson IV			
	4,410,341	10/1983	Edwards et al.			
	3,681,899	08/1972	Grote			
	4,447,191	05/1984	Bilstad et al.			
	4,481,827	11/1994	Bilstad et al.			
	4,526,515	07/1985	Devries			
	5,232,437	08/1993	Lysaght et al.			
	5,588,816	12/1996	Abbott et al.			
	5,762,791	06/1998	Deniega			
	5,795,317	08/1998	Brierton et al.			
	RE 36,871	09/2000	Epstein et al.			
	3,656,873	04/1972	Schiff			
	4,750,868	06/1988	Lundback			

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